

ZONING BOARD OF APPEALS

JUNE 21, 2021 MEETING OF ZONING BOARD OF APPEALS

MINUTES

**Present:** Chairman Ron Nolland, Kellie Porter (remote via Zoom), Meghan Weeden (remote via Zoom), Elizabeth Jent  
Kyle Burdo, Housing Code Inspector  
Joseph McMahon, Building Inspector

**Absent:** Scott DeMane, P.J. Whitbeck (alt)

**Also present:** Scott Barcomb  
Mikyom Arno  
Perry Buck  
Jim Abdallah  
Ryan Brynza  
Greg Brynza

Mr. Nolland called the meeting to order at 7:03 PM.

<b>APPEAL</b>	<b>APPLICANT</b>	<b>REQUEST</b>
2279	SCOTT BARCOMB 169 PROSPECT AVENUE	CLASS B AREA VARIANCE REQUEST TO CONSTRUCT AN ADDITION TO HOME, EXCEEDING LOT COVERAGE AND SETBACKS, CORNER LOT
2280	MIKYOM ARNO 104 MONTCALM AVENUE	SPECIAL USE PERMIT REQUEST TO CONTINUE OPERATION OF AN EXISTING GROCERY/CONVIENENCE STORE AND ADD A NEW BEAUTY SALON IN OTHER PORTION OF BUILDING IN R2 DISTRICT
2272	NUWAY CAR WASH 321 CORNELIA STREET	CLASS B AREA VARIANCE REQUEST FOR CONSTRUCTION OF TUNNEL CAR WASH BULDING WITH OFFICE SPACE, DEFICIENT IN SIDE YARD SETBACK AND COMMERCIAL DRIVEWAY WIDTH.
2273	NUWAY CAR WASH 321 CORNELIA STREET	SPECIAL USE PERMIT REQUEST FOR USE OF AUTOMOBILE CAR WASH AND INSTALLATION OF 10 FOOT FENCE IN SIDE AND REAR YARD
2216	ZAFRA, LLC 22 POWER DAM WAY	EXTENSION REQUEST FOR PREVIOUSLY GRANTED SPECIAL USE PERMIT FOR EXPANSION OF DATA CENTER

The agenda will be heard in the following order:

- Appeal 2279
- Appeal 2280
- Appeal 2216
- Appeal 2272
- Appeal 2273

Ron Nolland, chairman, provided a statement that there is not a full board at this meeting. Two board members are absent, leaving a total of four voting members. Three votes may carry a motion. Applicants are offered the choice at any time during this meeting to postpone on the board's behalf until the next zoning board meeting with a full board present.

The **first** item heard is Appeal #2279, Scott Barcomb, 169 Prospect Avenue for a Class B Area Variance request to construct an addition to home, exceeding lot coverage and setbacks, corner lot.

Discussion:

- Board and applicant discussion of proposed addition to home, removing a 10 ft x 21 ft enclosed porch and building a 14 ft x 32 ft addition, encroaching into the front yard setback and exceeding lot coverage.

*Public comment: None.*

*MOTION:*

By: E. Jent, seconded by M. Weeden

*IN REGARD TO APPEAL 2279, THE BOARD CHAIR MARK NO OR SMALL IMPACT MAY OCCUR IN QUESTIONS 1-11 AND SIGN.*

*ALL IN FAVOR: 4*

*OPPOSED: 0*

*MOTION PASSED*

*MOTION:*

By: E. Jent, seconded by M. Weeden

*IN REGARD TO APPEAL 2279, MOTION TO APPROVE THE VARIANCE REQUEST FOR 272 SQ FT LOT COVERAGE AND 6 FT FRONT YARD SETBACK AS SHOWN ON THE PLANS PROVIDED.*

*ALL IN FAVOR: 4*

*OPPOSED: 0*

*MOTION PASSED*

The **second** item heard was appeal 2280, Special Use Permit request to continue operation of an existing grocery convenience store and add a new beauty salon in other portion of the building in an R2 District.

Discussion:

- Board and applicant review of application.
- No additional square footage, no expansion, only change in use.

*Public Comment: None*

*MOTION:*

By: K. Porter, seconded by: E. Jent

*FOR APPEAL #2280, AFTER REVIEW OF THE LONG FORM ENVIRONMENTAL ASSESSMENT FORM, IT IS FOUND THAT THERE WILL BE LITTLE OR NO NEGATIVE IMPACT FROM THIS PROJECT.*

*ALL IN FAVOR: 4*

*OPPOSED: 0*

*MOTION PASSED*

*MOTION:*

By: K. Porter, seconded by: E. Jent

*FOR APPEAL 2280, MOTION TO APPROVE THE SPECIAL USE PERMIT REQUEST TO CONTINUE THE OPERATION OF THE EXISTING CONVIENENCE GROCERY STORE AND TO CHANGE THE OTHER HALF OF THE BULDING TO BE A BEAUTY SALON TO BE OPERATED OUT OF THE OTHER HALF OF THE BUILDING.*

*ALL IN FAVOR: 4*

*OPPOSED: 0*

*MOTION PASSED*

The **third** item heard was appeal 2216, Zafra LLC, 22 Power Dam Way, extension request for previously granted special use permit for expansion of data center.

Discussion:

- Special use permit was granted previously in September 2019. Building permit was obtained, but no work has been done to date. Building permit has expired, triggering special use permit extension.
- Original application and plans remain the same. No changes to SEQR.

*Public Comment:*

- *Ernie Gillespie, 89 Main Mill Street: Expresses concerns regarding fan use. Concerned about adding more fans to a building already having noise issues with current fan usage. Concern for the 7 neighborhood homes near this industrial zone who are currently having ongoing issues with the existing fan usage.*
- *Laverne Hicks, 9 Alex Way: Concern that this project an expansion, as stated in the request on agenda and in application.*
  - *Discussion by chair and building inspector regarding language wording of original application; Zafra, LLC is not allowed to expand further than what was originally approved in 2019. Laverne reviewed the original SEQR and found it states there is no existing dam, whereas there is, and SEQR also states project is not in the 100 year floodplain, whereas it is.*
  - *Discussion by R. Nolland, chairman, that current jurisdiction for this appeal tonight is only to extend a previously granted special use permit. This application was previously accepted/granted by this board, and only action requested at this meeting is to grant an extension, as this project has not been started and the building permit obtained has expired.*
- *Richard Hawkersmith, 59 Adirondack Lane: Richard expressed concerns that neither he nor neighbors were notified of this project at all 2 years ago. Expresses concern regarding zoning board decision making process and a recent noise complaint.*
  - *Discussion that building inspector's office is responsible to notify public of zoning board appeal public hearings, of which address listings are maintained and filed in building inspector's office.*
- *Kelly, 43 Adirondack Lane: Expresses gratitude for the education regarding the current special use permit extension process. Expresses concern for continued noise concerns to neighboring residences and suggests a respectful industrial neighbor located near a residential neighborhood should strive to be a good neighbor. Kelly expresses Zafra LLC has had numerous opportunities to address the current noise issue, but has not addressed this.*

- *Discussion by R. Nolland, chair, that enforcement of noise ordinance violation is done by the local city police and building inspector office.*

*MOTION:*

By: E. Jent, seconded by: M. Weeden

*IN REGARD TO APPEAL 2216, MOTION TO APPROVE THE EXTENSION WITH THE UNDERSTANDING THAT THE APPLICATION AND THE SEQR ARE IDENTICAL TO PREVIOUS APPLICATION AND SEQR APPROVED IN SEPTEMBER 2019.*

*ALL IN FAVOR: 4*

*OPPOSED: 0*

*MOTION PASSED*

The **fourth** item heard was appeal 2272, NuWay Carwash, 321 Cornelia Street, class B area variance request for construction of tunnel carwash building with office space, deficient in side yard setback and commercial driveway width

Discussion:

- Board and applicant discussion of proposed carwash at 321 Cornelia Street requiring a class B area variance for deficiency in side yard setbacks and commercial driveway width as well as a special use permit to operate an automobile car wash and installing 10 foot fencing.
- Applicant has been before the planning board. Planning board required clarifications to the sketch plan. Owner made change in size, making building smaller and pulling away from residential district and providing additional stacking capacity. Planning board submitted memo to zoning board of appeals outlining their findings.
- Review of proposed driveway width. 39.6 ft would be allowed (60% of total lot width), proposed driveway width over by 5 inches. Applicant agrees to cut 5 inches off proposed driveway width and comply with code.
- Discussion regarding noise proposed carwash would produce. Applicant measured noise decibel levels at various local car washes and route 3 traffic noise decibel levels. Sound from carwash was measured with doors open. Doors are typically closed during winter season.
- Discussion of hours of operation of proposed carwash business, proposing 7 am – 7 pm hours of operation.
- Review of site plan, car stacking, exit lane, rate of car flow through carwash.
- This project will have to have planning board review.
- Board member K. Porter speaks to concerns with stacking and how cars will be able to exit safely. May not be in zoning board jurisdiction, but ties into zoning requirements.
  - Applicant reviewed site plan in regard to stacking and emergency exit accommodation for vehicles.

*Public Comment:*

- *Jason Frank, Splash Carwash: Represents car wash across the street from this proposed car wash. Relays there was comment made at planning board meeting that there were no community members in opposition to this project, which is not true. Detailed concerns regarding number of customers, backups, stacking issues, health/safety/well-being of the community, no bypass lane in plans, plan designed with no alternate exit, site parcel too small and would need at least 1 acre, importance of zoning site plan review. Informational handouts submitted to board (see attachments at end of minutes)*
- *Concerned resident: Discussion of regulation 360-25 b, regarding carwash establishment not allowable closer than 200 feet from residential district. Expresses concerns regarding the noise a carwash will create for the residents in the residential district located next to this proposed carwash. Does not see where fencing will provide enough of a sound barrier for the noise that will be created. Concern also regarding the high water table which is already an issue in this area, especially since the SEQR form question 13a is marked yes for wetlands or other waterbodies.*
  - *Applicant/R. Nolland, board chair: 13a was deemed to be an auto-generated response and is incorrect in this instance. Water table would be site plan issue and jurisdiction of the planning board.*

*Concern for traffic and back up of cars on Cornelia Street if cars try to bypass the right-turn only and attempt to make left-hand turns.*
- *Bob Mihal: Speaks of concern for traffic backup. Eco Carwash has traffic light, this proposed carwash will not.*
- *Aaron Vinelette: Speaks of concern for space for parking to accommodate employees, customers, emergency/rescue vehicles.*

*Written public comment received and included as attachment to minutes.*

**MOTION:**

By: K. Porter, seconded by M. Weeden

IN REGARD TO APPEAL #2272, CLASS B AREA VARIANCE REQUEST, AFTER REVIEW OF THE SHORT FORM ENVIRONMENTAL SEQR, WE FIND THAT THERE IS LITTLE TO NO ENVIRONMENTAL IMPACT AND THAT THE CHAIR CAN CHECK BOXES 1-11 AND SIGN THAT HE AGREES THERE IS LITTLE TO NO ENVIRONMENTAL IMPACT TO THIS PROJECT.

*ALL IN FAVOR: 4*

*OPPOSED: 0*

*MOTION PASSED*

*MOTION:*

By: E. Jent seconded by M. Weeden

IN REGARD TO APPEAL #2272, MOTION TO GRANT A CLASS B AREA VARIANCE REQUEST FOR CONSTRUCTION OF A TUNNEL CAR WASH BUILDING WITH OFFICE SPACE DEFICIENT IN SIDE YARD SETBACK, WITH THE UNDERSTANDING THAT THE SECOND QUE LANE WILL BE CONVERTED INTO AN EXIT LANE.

*ALL IN FAVOR: 3*

*OPPOSED: 1*

*MOTION PASSED*

*(K. Porter voted in the negative)*

*MOTION:*

By: K. Porter, seconded by M. Weeden

FOR APPEAL #2273, MOTION THAT THE BOARD UTILIZE THE RESULTS OF OUR FINDINGS FOR THE SEQR FOR 2272, BEING THAT THEY ARE BOTH THE SAME SEQR WITH NO CHANGES.

*ALL IN FAVOR: 4*

*OPPOSED: 0*

*MOTION PASSED*

*MOTION:*

By: K. Porter, seconded by M. Weeden

FOR APPEAL #2273 MOTION TO APPROVE THE SPECIAL USE PERMIT REQUEST AND THE INSTALLATION OF A 10 FOOT FENCE, WITH THE ADDITION THAT WHATEVER THE PLANNING BOARD DECIDES FOR THE BARRIER, EITHER BEING THE 10 FOOT FENCE OR THE LARGEST OF THE TWO WILL BE APPROVED.

*ALL IN FAVOR: 4*

*OPPOSED: 0*

*MOTION PASSED*

*MOTION:*

By: M. Weeden, seconded by K. Porter

MOTION TO APPROVE MAY 17, 2021 MINUTES AS WRITTEN

*ALL IN FAVOR: 3*

*OPPOSED: 0*

*MOTION PASSED*

Motion to Adjourn:

By: M. Weeden, seconded by K. Porter

Adjourned at 9:45 PM

For the purpose of this meeting, this meeting was audio and video recorded. This is a true and accurate copy and transcription of the discussion. For a more detailed discussion, please see the recording.

Lisa Beebie  
Secretary  
Zoning Board of Appeals